

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Demetrius Jarod Smalls, # 286806,

Plaintiff,

v.

JC Nicholson and Ira Grossman,

Defendants.

No: 2:14-cv-3215-RMG

**ORDER**

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This matter is before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that the Court dismiss the Plaintiff’s Complaint, without prejudice and without service of process. (Dkt. No. 10). Plaintiff has not filed any objections to the Magistrate Judge’s recommendation. For the reasons set forth below, the Court agrees and ADOPTS the R & R as the order of the Court. Accordingly, this matter is dismissed without prejudice.

**Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the R&R to which specific objection is made. Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R&R, the Court

need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

### **Discussion**

Plaintiff, Demetrius Jarrod Smalls ("Plaintiff"), is an inmate at Lieber Correctional Institution of the South Carolina Department of Corrections. Plaintiff alleges that the two Defendants in this case, J.C. Nicholson, a South Carolina Circuit Court Judge, and Ira Grossman, a prosecutor, violated the provisions of 42 U.S.C. § 1983 by failing to comply with Rule 56 of the South Carolina Rules of Civil Procedure. (Dkt. No. 1). For the reasons stated in the R & R, the Court agrees with the Magistrate Judge that the claims against J.C. Nicholson and Ira Grossman challenging the state court's decision before this federal court are prohibited by the *Rooker-Feldman* doctrine. *See Plyer v. Moore*, 129 F.3d 728, 731 (4th Cir. 1997) (The *Rooker-Feldman* doctrine provides that "lower federal courts generally do not have jurisdiction to review state-court decisions; rather, jurisdiction to review such decisions lies exclusively with superior state courts and, ultimately, the United States Supreme Court.").

Additionally, for the reasons stated in the R & R, the Court agrees with the Magistrate Judge in finding that Plaintiff's claims for money damages must be denied because both a judge and a prosecutor are entitled to the protections of absolute immunity. *See Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985) ("It has long been settled that a judge is absolutely immune from a claim for damages arising out of his judicial actions."); *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993) ("[A]cts undertaken by a prosecutor in preparing for the initiation of judicial proceedings or for trial, and which occur in the course of his role as an advocate for the State, are entitled to the protections of absolute immunity.").

Finally, for the reasons stated in the R & R, the Court agrees with the Magistrate Judge in finding that the remedy Plaintiff seeks in the form of an injunction and declaratory relief must be dismissed because Plaintiff is not entitled to a declaration that Defendants violated his rights in the past or a reversal of his conviction through the instant civil action. *See Heck v. Humphrey*, 512 U.S. 477 (1994).

### Conclusion

The District Court **ADOPTS** the Magistrate Judge's R & R, (Dkt. No. 10), as the Order of the Court. Accordingly, Plaintiff's Complaint is **DISMISSED** without prejudice and without service of process.

**AND IT IS SO ORDERED**



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Richard M. Gergel  
United States District Court Judge

September 29, 2014  
Charleston, South Carolina